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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/592,970	06/25/2008	Helmut Konopa	2004P00357WOUS	4064
46726	7590	03/25/2011	EXAMINER	
BSH HOME APPLIANCES CORPORATION INTELLECTUAL PROPERTY DEPARTMENT 100 BOSCH BOULEVARD NEW BERN, NC 28562				JIANG, CHEN WEN
ART UNIT		PAPER NUMBER		
3784				
			NOTIFICATION DATE	DELIVERY MODE
			03/25/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

NBN-IntelProp@bshg.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/592,970	KONOPA ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Chen-Wen Jiang	3784

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 January 2011.
- 2a) This action is **FINAL**.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 11-30 is/are pending in the application.
- 4a) Of the above claim(s) 24-30 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 11-16 and 19-23 is/are rejected.
- 7) Claim(s) 17 and 18 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 June 2008 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ .  | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

### Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 11-16, 19 and 20 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Tsukamoto (JP 08271120).

Paragraph [0025] of Tsukamoto is a method to determine the predetermined sensor height when installed the sensor. The sensor height does not change during the operation of the compressor; therefore, it is independently from the operation of the compressor. Also, referring to claims 1 and 2 of Tsukamoto, there is nothing referring to the relation of sensor height and the operation of the compressor. In regard to claims 11 and 16, Tsukamoto discloses a refrigerator having an evaporating pan capable of performing a fast evaporation of defrosted water. Referring to the Figures, the refrigerator 10 comprises storage compartment, compressor 18, evaporating pan 22, heating devices 28, 138, 328, 438, water level sensors 30 and controller 32. The heating device is periodically operated by the controller and the signal from the water level device.

In regard to claim 13, Tsukamoto discloses electrically operated heating rod (Fig.3).

In regard to claims 14 and 15, Tsukamoto discloses the heating devices arranged on a wall or immersed in the water (Figs.4, 5, 6 and 10), e.g.; Figs.5 and 6 present the heater 138 attached to the side wall of evaporating pan 122 [0026].

In regard to claim 19, Tsukamoto discloses water level sensor 30.

In regard to claim 12, heating rod and ohmic resistance are art recognized equivalent elements; it would have been obvious to one of ordinary skill in the art to substitute one for other. In re Fout, 675 F.2d 297, 301, 213 USPQ 532, 536 (CCPA 1982).

In regard to claim 20, float is a well known water lever detection device.

3. Claims 11, 12, 16 and 19-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Ichimura et al. (JP 08035757).

In regard to claim 11, Ichimura et al. disclose a device to evaporate defrosting water of a refrigerator. The refrigerator comprises a storage compartment 23, 23, compressor 6, 72, 95, evaporating pan 27, heating device 65 and controller 33 to operate heating device. A detector 31 detects the defrosting water reaching a predetermined amount. A heater 65 is energized by a control device 33 to produce heat, independently from the operation of the compressor. The defrosting water in the evaporating pan 27 is heated by the heater 65 in order to accelerate its evaporation.

In regard to claim 12, Ichimura et al. disclose an ohmic resistance heater (Fig.1).

In regard to claim 16, Ichimura et al. disclose controller periodic operation of the heating device based on the water level detector 31.

In regard to claims 19 and 20, Ichimura et al. disclose float switch 62 (Fig.6).

In regard to claim 21, Ichimura et al. disclose timer to de-energize the heater.

In regard to claim 22, Ichimura et al. disclose temperature sensor for heating device control (Fig.5).

### **Claim Rejections - 35 USC § 103**

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. Claims 11 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Philipp (U.S. Patent Number 2,315,222) in view of Tsukamoto (JP 08271120).

Philipp discloses an evaporating pan 90 integrated with compressor 92 as shown in Fig.5. The heat generated by the compressor is used to evaporate water within. However, Philipp does not disclose heating device to evaporate the water. Tsukamoto discloses heating element within the pan in the same field of endeavor for the purpose of accelerating water evaporation instead of draining the water. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Philipp with heating device in view of Tsukamoto so as to remove the water in the pan instead of drain water to the outside as an alternative method removing the defrost/condensed water.

### **Allowable Subject Matter**

6. Claims 17 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### **Conclusion**

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chen-Wen Jiang whose telephone number is (571) 272-4809. The examiner can normally be reached on Monday-Thursday from 8:00 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frantz Jules can be reached on (571) 272-6681. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chen-Wen Jiang/  
Primary Examiner, Art Unit 3784